

Addendum

to the Final Program Environmental Impact Report
for the North San José Development Policies Update
(SCH# 2004102067)

LEGACY 101 PD ZONING & PERMIT

File No. PDC07-091 & PD07-081

Prepared by the



December 2007

PREFACE

PURPOSE OF AN ADDENDUM

The California Environmental Quality Act (CEQA) recognizes that between the date an environmental document is completed and the date the project is fully implemented, one or more of the following changes may occur: 1) the project may change; 2) the environmental setting in which the project is located may change; 3) laws, regulations, or policies may change in ways that impact the environment; and/or 4) previously unknown information can arise. Before proceeding with a project, CEQA requires the Lead Agency to evaluate these changes to determine whether or not they effect the conclusion in the environmental document.

In June 2005, the City of San José certified the Final Program Environmental Impact Report (EIR) for the North San José Development Policies Update (SCH# 2004102067) that allows for 26.7 million square feet of new industrial/office/Research & Development uses, 1.7 million square feet of new neighborhood serving commercial uses, and the addition of 32,000 new residential units in the Rincon Area.

The purpose of this Addendum is to analyze the impacts of a Director-Initiated Conforming Planned Development Rezoning and the Legacy 101 Property Project that proposes construction of approximately 398,350 gross square feet of office/R&D uses on a 16.35-acre site in north San José.

The CEQA Guidelines §15162 state that when an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

- d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines §15164 state that the lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in §15162 (see above) calling for preparation of a subsequent EIR have occurred.

Based on the proposed project description and knowledge of the project site (based on the environmental review prepared for the North San José Development Policies Update EIR), the City has concluded that the proposed project would not result in any new impacts not previously disclosed in the North San José Development Policies Update EIR and would not result in a substantial increase in the magnitude of any significant environmental impacts previously identified in the EIR. For these reasons, an addendum to the North San José Development Policies Update EIR has been prepared for the proposed project.

This addendum will not be circulated for public review, but will be attached to the North San José Development Policies Update EIR, pursuant to CEQA Guidelines §15164(c).

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SECTION 1.0 INTRODUCTION AND PURPOSE

This Addendum of environmental impacts is being prepared to conform to the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 *et. seq.*), and the regulations and policies of the City of San José.

This Addendum evaluates the potential environmental impacts which might reasonably be anticipated to result from the proposed Director-initiated confirming rezoning to revise the height and setback requirements of the existing *IP (PD) – Planned Development* zoning district, and a PD Permit to allow development of approximately 398,350 gross square feet of industrial park/office/R&D uses on an approximately 16.35-acre site in north San José.

The City of San José is the Lead Agency under CEQA and has prepared this Addendum to address the impacts of implementing the proposed rezoning on the project site.

Tiering of the Environmental Review

In accordance with CEQA Sections 21093(a) and 21093(b) and CEQA Guidelines Section 15152(a), this Addendum tiers off the City of San José Final Program EIR for the North San José Development Policies Update (State Clearinghouse #2004102067) certified by the City Council in June 2005 (hereinafter referenced as the NSJ FPEIR).

CEQA Section 21093(b) states that environmental impact reports shall be tiered whenever feasible, as determined by the lead agency. “Tiering” refers to using the analysis of general matters contained in a broader Environmental Impact Report (EIR) (such as one prepared for a general plan or policy statement) in subsequent EIRs or Initial Studies/negative declarations on narrower projects; and concentrating the later environmental review on the issues specific to the later project [CEQA Guidelines 15152(a)].

Tiering is appropriate when it helps a public agency to focus on issues at each level of environmental review and to avoid or eliminate duplicative analysis of environmental effects examined in previous environmental impact reports [CEQA Section 21093(a)].

The amount of residential and commercial development proposed was included and analyzed in the certified 2005 NSJ FPEIR, and the FPEIR evaluated, at a program level, developing residential, commercial, and park uses on the project site. This Addendum evaluates the project specific environmental impacts that were not addressed in the 2005 NSJ FPEIR. The CEQA Guidelines (§15164 and 15162) describe a process for evaluating the potential significance of new information. The process can reach one of three conclusions:

1. The new information does not result in the identification of a new significant environmental impact not already addressed in the EIR, and it does not identify a substantial increase in the magnitude of a previously-identified significant environmental impact. Therefore, no additional environmental review is required.
2. The new information does not result in identification of a new significant environmental impact not previously disclosed in the EIR and/or it identifies a substantial increase in the magnitude of a previously-identified significant environmental impact. Therefore, preparation of a Supplemental EIR is required.
3. In order to make a determination of whether the existing EIR is adequate or whether preparation of a Supplemental EIR is warranted, further technical studies are required.

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Legacy 101 Property

2.2 PROJECT LOCATION

The approximately 16.35-acre project site is located at the northwest corner of Orchard Parkway and Atmel Way in north San José. Regional and vicinity maps of the project site are shown on Figure 2.0-1 and 2.0-2, respectively.

The project site is currently vacant. Surrounding land uses include industrial uses and vacant land to the north, vacant land to the east, industrial park uses to the south, and Industrial uses and the Guadalupe River to the west. An aerial photograph showing surroundings is on Figure 2.0-3.

2.3 PROPERTY OWNER/PROPONENT

Legacy Partners Commercial
Steve Dunn
4000 E. Third Avenue, Suite 600
Foster City, CA 94404
(650) 571-2200

2.4 LEAD AGENCY CONTACT

City of San José
Department of Planning, Building, and Code Enforcement
Andrew Crabtree, Principal Planner
200 East Santa Clara Street
San José, CA 95113-1905
(408) 535-7893

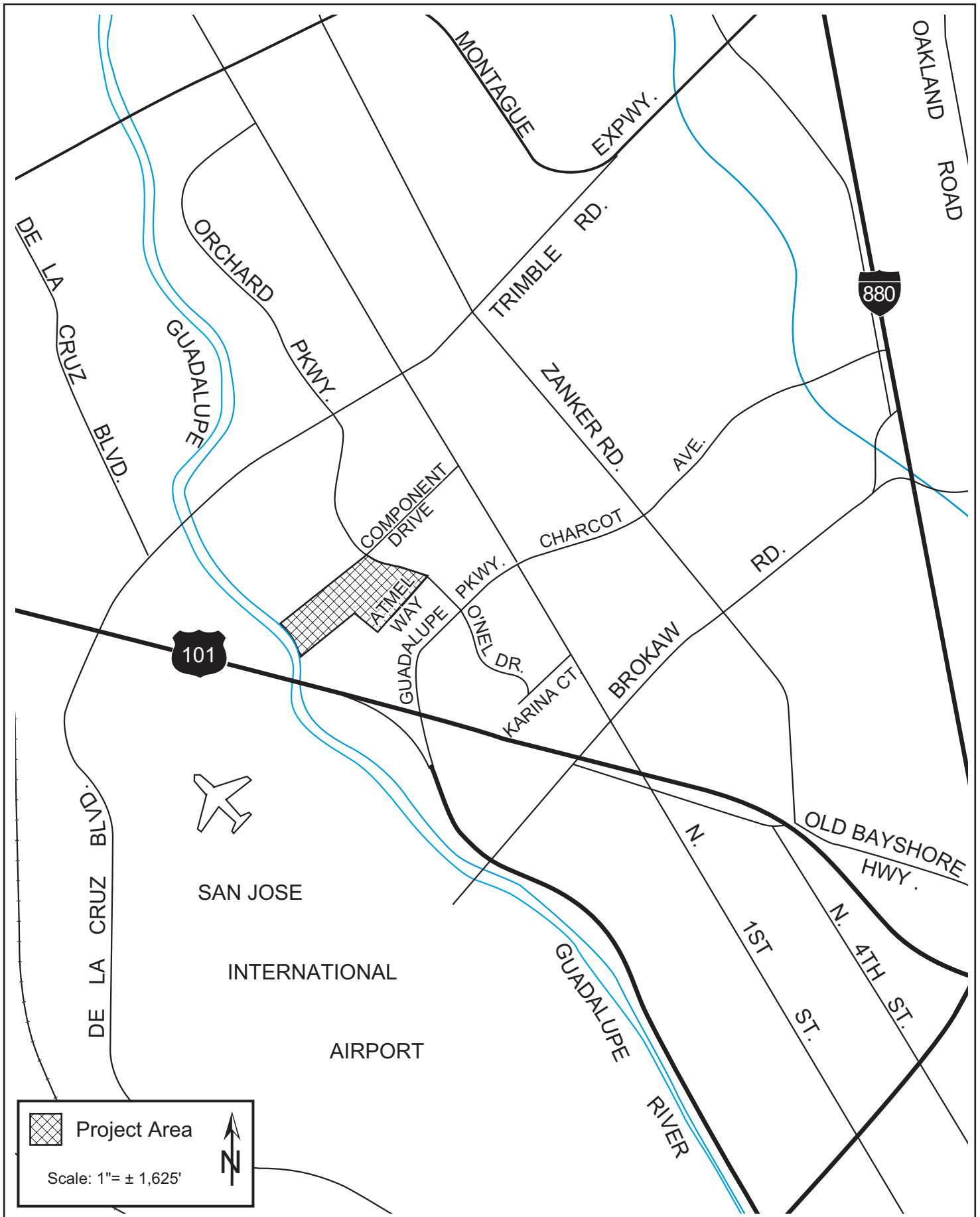
2.5 ASSESSOR'S PARCEL NUMBERS

A portion of 101-02-010

2.6 GENERAL PLAN LAND USE DESIGNATION AND ZONING DESIGNATION

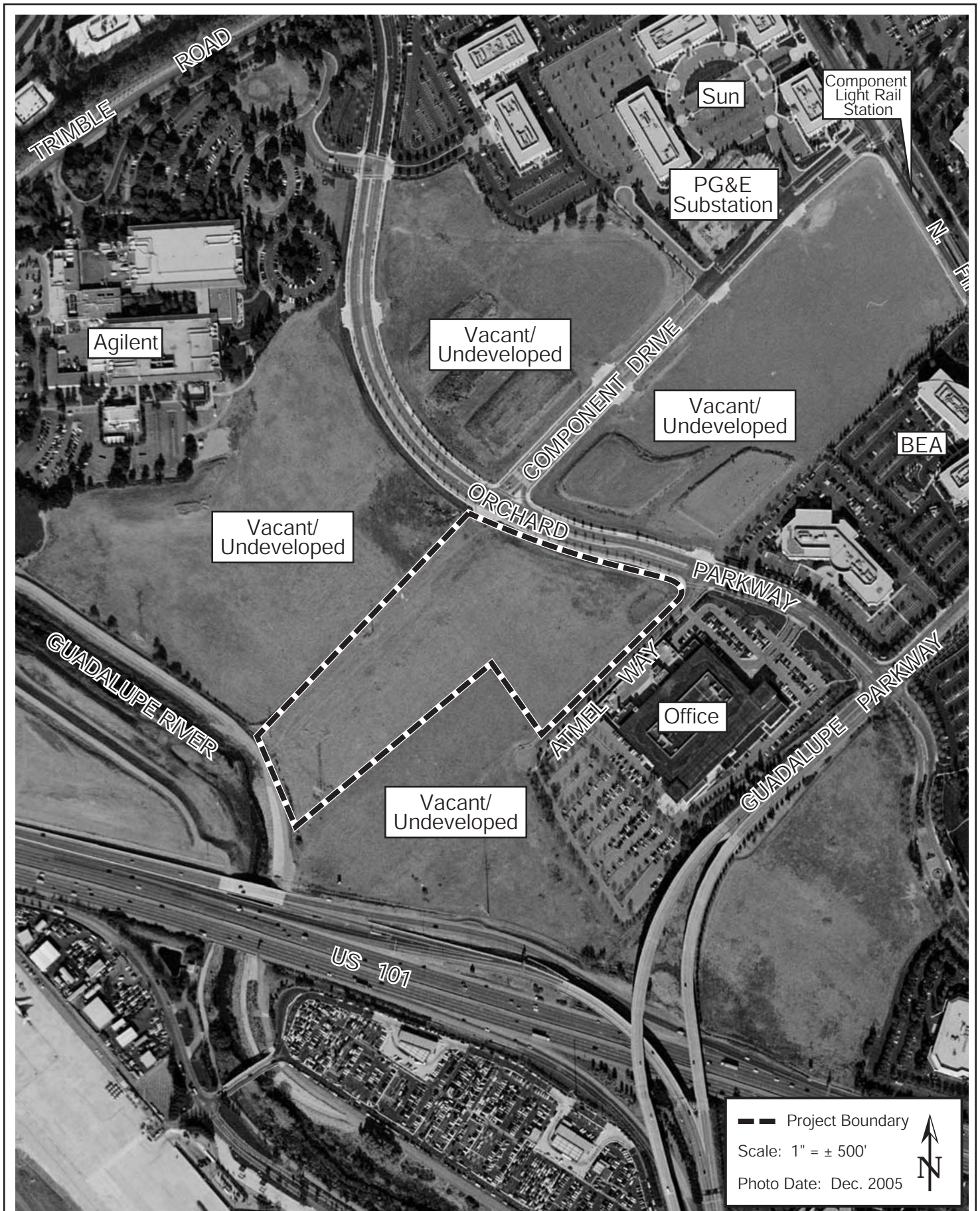
General Plan Land Use Designation: *Industrial Park*

Zoning Designation: *IP (PD) – Planned Development (PDC93-017)*



VICINITY MAP

FIGURE 2.0-2



AERIAL PHOTOGRAPH

FIGURE 2.0-3

SECTION 3.0 PROJECT DESCRIPTION

3.1 OVERVIEW OF THE PROPOSED PROJECT

The 16.35-acre project site is currently designated by the General Plan as *Industrial Park*, and is zoned *IP(PD) Planned Development* through a Planned Development rezoning that was approved in March 1994 for a larger area of approximately 134 acres. The current zoning does not specify the amount of development allowed on the subject site, but set an overall maximum Floor Area Ratio (FAR) of 0.70 that would equate to approximately 498,535 square feet of industrial park office development on the subject property.

The project is a Director-initiated conforming rezoning to revise the height and setback regulations of the current zoning district to facilitate development more consistent with the goals and policies of the North San Jose Area Development Policy, including design measures intended to foster a pedestrian-oriented environment and promote transit use. The proposed rezoning will preserve the existing level of entitlement for the site but also allow the option of further intensification as provided for under the North San Jose Area Development Policy. The proposed rezoning would modify the allowable setback and height standards to be more permissive, consistent with the requirements of the IP – Industrial Park Zoning district as amended. The proposed modifications are described below.

Existing PD Zoning	Proposed PD Zoning
40 Foot Minimum Front Setback abutting public streets	Minimum Setbacks in accordance with the IP Industrial Park zoning district as amended. <ul style="list-style-type: none"> • Front (From Orchard Parkway and Atmel Way) 15 feet for buildings, 25 feet for Parking • Side and Rear 0 feet
Maximum height for buildings and structures shall be forty five (45) feet plus one foot of height for every four feet of minimum boundary clearance from a public street in excess of the minimum setback distance from such street, but in no event to exceed ninety (90) feet.	Maximum building height shall be in accordance with the requirements of the IP-Industrial Park Zoning District: 45 feet or subject to General Plan Height policies. Per the current General Plan, the maximum building height is 150 feet for properties within reasonable walking distance of the light rail stations located within the boundaries of the North San José Area Development Policy.

No other changes are proposed to the allowed uses or other development standards of the current Planned Development zoning (PDC93-017).

The project also includes a PD Permit (File No. PD07-081) to construct approximately 398,350 gross square feet of industrial park/office/R&D uses in two 6-story buildings.



3.2 PROJECT DESCRIPTION

The project proposes to construct a Phase I development totaling approximately 398,350 gross square feet of industrial park/office/R&D uses in two 6-story buildings. The project would result in a development density floor area ratio (FAR) of 0.56 on the site. The two buildings each have a rectangular footprint and would be oriented with their longer facades perpendicular to Component Drive and Atmel Way. The project would provide a 20-foot wide landscape easement fronting Component Drive, a 25-foot landscape setback fronting Atmel Way, and 10-foot minimum landscape setbacks along the north and southern property lines.

A paved pedestrian “spine” is proposed across the middle of the site (through the two buildings), which would connect Orchard Parkway with the Guadalupe River trail. Along the western edge of the site, a minimum 100-foot building setback is provided from the top of bank of the Guadalupe River trail to the edge of the parking lot. Additional open space area is provided along the west edge of the site within a PG&E transmission tower easement. The easement areas will be landscaped in accordance with Santa Clara Valley Water District (SCVWD) and PG&E requirements, respectively, and will also include trails, benches and tables. Native, drought tolerant and watershed specific plants will be planted to minimize water consumption and maintenance, provide wildlife habitat and maximize shade.

Landscaped areas throughout the site will be used for stormwater infiltration and filtration. Rooftop runoff will be directed to infiltration planter areas.

3.2.6 Site Access

Access to the site is proposed from one driveway that would comprise the northwest leg of the Orchard Parkway/Component Drive intersection and two driveways off of Atmel Way.

3.2.7 Parking

Surface parking is proposed to serve the development with approximately 1,258 stalls. The surface parking lots cover approximately 70% of the total site area. The project includes landscaped setback areas and other landscaping throughout the project site that along with building areas and new driveway circulation cover the remaining 30% of the total site area. A third building and a parking structure are planned for a future second phase of development, and would replace some of the surface parking area.

3.2.5 Dedication of Public Right-Of-Way

The project includes a public access path from Orchard Parkway along the south side of Component Drive that ends at the Guadalupe River trail.

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND DISCUSSION OF IMPACTS

In accordance with CEQA Section 21093(b) and CEQA Guidelines Section 15152(a), this Addendum tiers off the City of San José 2005 NSJ FPEIR (approved June 2005).

The amount of industrial park/office/R&D development proposed was included and analyzed in the certified 2005 NSJ FPEIR. Up to 498,535 square feet of industrial park development was previously entitled and included in the background conditions in the FPEIR. This Addendum evaluates the project specific environmental impacts that were not addressed in the 2005 NSJ FPEIR.

This section, **Section 4.0 Environmental Setting, Checklist, and Discussion of Impacts**, describes the existing environmental conditions on and near the project area, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, was used to compare the environmental impacts of the “Proposed Project” with those of the “Approved Project” (i.e., development approved in the 2005 NSJ FPEIR) and to identify whether the proposed project would likely result in new significant environmental impacts. The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section. Mitigation measures are identified for all significant project impacts. “Mitigation Measures” are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guideline 15370). Measures that are required by law or are City standard conditions of approval are categorized as “Standard Measures.” Measures that are proposed by the applicant that will further reduce or avoid already less than significant impacts are categorized as “Avoidance Measures.”

4.1 AESTHETICS

4.1.1 Setting

4.1.1.1 *Project Site*

The approximately 16.35-acre project site is located at the northwest corner of Orchard Parkway and Atmel Way in north San José. The project site is currently vacant. The project site and surrounding area are flat, and as a result, the project site is only visible from the immediate area.

The visual character of the site is that of a vacant, disturbed site with minimal vegetation. The property does not contain any buildings or structures. Existing vegetation on the site consists of ruderal (weedy) vegetation and several ornamental trees along the site's Orchard Parkway frontage.

4.1.1.2 *Surrounding Area*

Surrounding land uses include industrial uses and vacant land and one to two-story industrial/office buildings to the north and north-west, vacant land to the east, industrial park uses to the south, and Industrial uses and the Guadalupe River to the west (refer to Figure 2.0-3). The vacant land surrounding the site is planned for high-rise industrial park/office uses.

Photographs of the project site are shown in Photos 1-2

4.1.1.3 *Scenic Vistas*

The project site is not located within a scenic viewshed or along a scenic highway. Intermittent views of the foothills are available from the project site looking northeast. The views of the foothills are interrupted by existing buildings and landscape trees.



Photo 1 - View of project site from Orchard Parkway facing northwest towards northern project boundary.



Photo 2 - View of project site and roadway from intersection of Orchard Parkway and Component Drive facing west.

4.1.2 Environmental Checklist and Discussion of Impacts

AESTHETICS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
5) Increase the amount of shading on private or public open space (e.g., backyards, parks, plazas, and/or school yards)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

4.1.2.1 *Change in Visual Character*

The project proposes to construct approximately 398,350 gross square feet of office/R&D uses in two 6-story buildings with surface parking (refer to Figure 3.0-1). The project proposes to plant landscape trees and shrubs, vines, and groundcover adjacent to buildings and throughout the site.

The visual conditions in the North San Jose area are described in the certified 2005 NSJ FPEIR. The visual analysis focused on conformance of new development with established City of San Jose design guidelines. Additionally, the visual analysis evaluated the increase in shade and shadows from proposed development that could affect public and private open spaces. It was concluded in the 2005 NSJ FPEIR that future development’s conformance with the City’s *Industrial Design Guidelines* would avoid significant visual and aesthetic impacts, including: 1) increased shade and shadow on public and private open space areas, 2) impacts to scenic vistas, 3) visual effects of light and glare.

The proposed new development is required to conform to the design criteria set forth in the North San Jose Area Development Policy. Maximum building height of site development, per the General Plan, is 150 feet, due to the site’s proximity to the light rail stations within the NSJ Development Policy Area. The proposed PD Permit includes two 6-story buildings with a maximum height of 100 feet to the top of the mechanical penthouse.

The project would include lighting for security and site recognition. These sources would likely consist of outdoor lighting of parking areas, driveways, and walkways, and lighted commercial

signage. The increase in night lighting from new development would not significantly increase the ambient light levels in the area, which are already dominated by existing sources of night lighting.

The proposed project would not result in any new or more significant visual or aesthetic impacts than were described in the certified 2005 NSJ FPEIR.

Impact AES – 1: Development of the proposed project in conformance with the adopted Industrial Design Guidelines would not result in a substantial degradation of the visual character of the area, and would not significantly affect a scenic vista. (Less Than Significant Impact)

Mitigation Measure: The following mitigation measure is identified as part of the certified 2005 NSJ FPEIR to be required of future residential development in North San José and is proposed by the project:

MM AES -1.1: Compliance with the City of San José Industrial Design Guidelines which include the following:

- New development should avoid adverse impacts, such as noise, dust, and traffic, on nearby properties. [Policy 1A2]
- Activities generating noise, traffic, dust, or odor and activities on adjacent properties whenever possible. The location of these activities in proximity to residential or other sensitive uses, such as schools or offices, should be avoided. [Policy 1C1]
- Loading areas, access and circulation driveways, trash and storage areas, and rooftop equipment should be located as far as possible from adjacent residences. Any negative effects on adjacent properties should be fully mitigated. [Policy 1C2]
- To maintain a livable environment, residential and non-residential uses should be separated using masonry walls, landscaping, building orientation, and activity limitations. [Policy 1C3]
- To protect residential privacy and to reduce visual mass, single-story industrial buildings adjacent to residential properties of less than thirty-five feet in height should be placed at the setback applicable to the adjacent residential development. Multi-story industrial buildings adjacent to residential properties up to 35 feet in height should be set back one and one-half feet for each one-foot of building height. Setbacks for industrial buildings adjacent to residential developments over 35 feet in height should be similar to the residential setback if the scale of the residential and industrial buildings is similar. [Policy 1C5]
- Window orientation for industrial buildings should preclude a direct line of sight into adjacent, residential private open spaces. First floor windows may be appropriate if screened with appropriate fencing. [Policy 1C6]
- When industrial buildings back up to the common open spaces of residential projects, the industrial setback area should be landscaped as well as functionally and/or visually combined with the residential open space where possible. [Policy 1C7]
- Projects should conform to the City Council adopted guidelines for land located in proximity to high pressure natural gas pipelines. [Policy 1C8]
- Service yards should not be located near residential areas. [Policy 4A4]

- Trash/recycle enclosures should be located away from residential uses and should not create a nuisance for adjacent properties. [Policy 4B3]
- Loading docks should not be located within 100 feet (50 feet if fully enclosed within a building) of residential uses. [Policy 4C1]
- Loading areas and vehicle access doors should not be visible from public streets or from neighboring residential uses. All loading areas, vehicle access doors, docks and truck circulation aisles should be separated from residential properties by a minimum seven-foot high masonry wall and a minimum two-foot wide heavily planted landscape strip to provide full visual screening. [Policy 4C2]
- Loading areas should be located away from highly visible areas of the site, preferably at the rear of buildings. Vehicle access doors should not face public streets, freeways or expressways. [Policy 4C3]
- Outdoor storage areas should be located at the rear of the site but not adjacent to residential areas. [Policy 4D2]
- Chain link fences should not be used adjacent to residential properties or when visible from the street. [Policy 4D3]
- Mechanical equipment should be located and operated in a manner that is not a nuisance for adjacent properties. [Policy 4F4]
- Light fixture heights should not exceed eight feet when adjacent to residential uses unless the setback of the fixture from property line is twice the height of the fixture. Light fixtures should not exceed 25 feet in height. [Policy 4G2]
- Design consideration should be given to staging areas where hazardous materials are loaded and unloaded to assure containment of spills and provision of maximum safety. [Policy 4I4]
- The maximum height for screen walls and fences adjacent to public streets and residential or commercial uses should be seven feet unless additional height is necessary to screen outdoor equipment. [Policy 4J3]
- Parking lots should be accessed from non-residential streets. [Policy 5A2]
- Truck access should use existing or planned median island turn pockets and should be from non-residential streets. [Policy 5D4]

4.1.2.2 *Light and Glare Impacts*

As discussed in the certified 2005 NSJ FPEIR, light in the project area would generally increase due to the increased development. It was concluded in the certified 2005 NSJ FPEIR that significant light and glare impacts, including light spillover onto adjacent properties, would be reduced or avoided by compliance with the City's *Outdoor Lighting Policy* (4-3).

The proposed project would not result in any new or more significant light and glare impacts than were described in the certified 2005 NSJ FPEIR.

Impact AES – 2: The project would increase light in the project area. **(Significant Impact)**

Mitigation Measure: The following mitigation measure was identified as part of the certified 2005 NSJ FPEIR to be required of future development in North San José and proposed by the project:

MM AES – 2.1: Comply with the City’s *Outdoor Lighting Policy* (Policy 4-3), which includes the use of low-pressure sodium outdoor security lighting on-site, along walkways, entrance areas, common outdoor use areas, and parking areas.

4.1.3 Conclusion

Impact AES – 1: The proposed project, with the implementation of the above program mitigation measures, would not result in any new or more significant visual and aesthetic impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

Impact AES – 2: The proposed project, with the implementation of the above mitigation measure, would not result in any new or more significant light and glare impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.2 AGRICULTURAL RESOURCES

4.2.1 Setting

The project site has been designated for urban uses for over 30 years. It is currently undeveloped and has not been used for agricultural purposes for at least a decade. The project site is not the subject of a Williamson Act contract.

4.2.2 Environmental Checklist and Discussion of Impacts

AGRICULTURAL RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

As discussed above, the project site is not designated as farmland in the City’s General Plan, nor is it used for agricultural purposes. For these reasons, the proposed project would not result in any new or more significant impacts to farmland or agricultural resources than were described in the certified 2005 NSJ FPEIR.

4.2.3 Conclusion

The proposed project would not result in impacts to farmland. **(No New Impact)**

4.3 AIR QUALITY

4.3.1 Setting

4.3.1.1 *Background Information*

The ambient and regulatory requirements regarding air quality have basically remained unchanged since the approval of the 2005 NSJ FPEIR. The primary change is that the Bay Area Air Quality Management District (BAAQMD) adopted the *Bay Area 2005 Ozone Strategy* on January 4, 2006. The *Bay Area 2005 Ozone Strategy* updates VMT and other assumptions in the 2000 CAP related to the reduction of ozone in the atmosphere and serves as the current CAP for the Bay Area.

4.3.2 Environmental Checklist and Discussion of Impacts

AIR QUALITY						
	New Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,5
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,5
3) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,5
4) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,5
5) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

4.3.2.1 *Impacts from the Project*

Regional and Local Air Quality Impacts

The development of the proposed project would contribute to the significant regional and local air quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project, however, would not result in any new or more significant regional or local air quality impacts than were described in the certified 2005 NSJ FPEIR.

Impact AIR – 1: The proposed project would result in impacts to regional and local air quality. **(Significant Impact)**

Mitigation Measure: The following mitigation measure is identified as part of the certified 2005 NSJ FPEIR and proposed by the project:

MM AIR – 1.1: The project shall implement measures identified by BAAQMD to reduce long-term contributions to regional and local emissions, which may include, but are not limited to, the following:

- Providing bicycle lanes, sidewalks and/or paths, connecting project residences to adjacent schools, parks, the nearest transit stop and nearby commercial areas;
- Providing secure and conveniently placed bicycle parking and storage facilities at parks and other facilities;
- Using electric lawn and garden equipment for landscaping maintenance;
- Constructing transit amenities such as bus turnouts/bus bulbs, benches, and shelters;
- Providing direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development; and
- Utilizing reflective (or high albedo) and emissive roofs and light colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand.

Construction-Related Impacts

Construction activities would temporarily affect local air quality. Construction activities such as demolition, earthmoving, construction vehicle traffic and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality. Construction activities are also a source of organic gas emissions. Solvents in adhesives, non-water based paints, thinners, some insulating materials, and caulking materials would evaporate into the atmosphere and would participate in the photochemical reaction that creates urban ozone. Asphalt used in paving is also a source of organic gases for a short time after its application.

Construction dust could affect local air quality at various times during construction of the project. The dry, windy climate of the area during the summer months creates a high potential for dust generation when, and if, underlying soils are exposed to the atmosphere. The effects of construction activities would be increased dustfall and locally elevated levels of PM₁₀ downwind of construction activity.

The development of the proposed project would contribute to the significant construction-related, short-term air quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project, however, would not result in any new or more significant construction-related air quality impacts than were described in the certified 2005 NSJ FPEIR.

Impact AIR – 2: The proposed project would result in significant construction-related, short-term air quality impacts. **(Significant Impact)**

Mitigation Measures: The following mitigation measures are identified as part of the certified 2005 NSJ FPEIR and are proposed by the project:

MM AIR – 2.1: Water all active construction areas at least twice daily.

MM AIR – 2.2: Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.

MM AIR – 2.3: Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.

MM AIR – 2.4: Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites.

MM AIR – 2.5: Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.

MM AIR – 2.6: Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.

MM AIR – 2.7: Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)

MM AIR – 2.8: Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

MM AIR – 2.9: Replant vegetation in disturbed areas as quickly as possible.

4.3.3 Conclusion

Impact AIR – 1: The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant regional or local air quality impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

Impact AIR – 2: The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant construction-related air quality impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.4 BIOLOGICAL RESOURCES

The following discussion is based upon a biological evaluation of the site completed by WRA *Environmental Consultants* in June 2007. A copy of the report is included in Appendix A of this Addendum.

4.4.1 Setting

The project site is an undeveloped property located within a developed area. The property contains ruderal (weedy) vegetation. There are no trees on the site, except for street trees along Orchard Parkway.

Due to the developed nature of the project site and past human disturbance, the species diversity at the project site is extremely low. Wildlife species expected to occur in the area are those adapted to human activity, including mourning doves, rock doves, raccoons, and opossums. Because of the proximity of the Guadalupe River, an increased variety of bird species are likely to forage on the property.

There are no wetlands or riparian areas within the project site. No habitat is present in the project site for local special status plant species. The project site is not located within an adopted Habitat Conservation Plan or other approved local, regional, or state habitat conservation plan.

4.4.1.1 *City of San José Riparian Corridor Policy*

The City of San José's Riparian Corridor Policy Study design guidelines state development adjacent to riparian habitats generally should be set back 100 feet from the outside edge of the riparian habitat (or top of bank, whichever is greater) to reduce anticipated impacts to riparian biotic communities and hydrologic regimes.

Riparian habitat adjacent to the Guadalupe River is separated from the project site boundary by an approximately 20-foot high berm and a Santa Clara Valley Water District service road.

The edge of the riparian corridor was determined to be the westernmost edge of the service road (and in several areas the dripline of riparian trees that extend beyond the edge of the service road). As long as development is set back 100 feet from the above-referenced riparian delineation, the proposed project would be in compliance with the City's Riparian Corridor Policy.

4.4.1.2 *Special-Status Plants and Animals*

Special-status plant and animal include species listed under state and federal Endangered Species Acts (including candidate species), animals designated as Species of Special Concern by the California Department of Fish and Game, and plants listed in the California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California.

Most of the special-status plants and animals that have been reported in the general project area are primarily associated with freshwater marsh, salt marsh, and aquatic habitats. These habitats are not present on the project site and, therefore, associated species, such as the salt harvest mouse and California clapper rail, are not expected to occur on the project site. Special-status animal species that use upland habitats near the Bay include burrowing owl, tricolored blackbird, and song sparrow.

The lack of natural plant communities and extensive human disturbance reduce the habitat quality of the site in general. For these reasons, special-status plant and animal species are not expected to occur on the project site.

The project area has several recorded occurrences of Western Burrowing Owl. The nearest occurrence is from 2003 and is located on the east side of Guadalupe Parkway between Onel Drive and U.S. 101. Additionally, the *Mitigation Agreement for Agilent Technologies, Inc. and the California Department of Fish and Game*, 2000, depicts two Burrowing Owl burrows and one occupied burrow to the northwest of the site, across Orchard Parkway towards Trimble Road. No records of Burrowing Owl sightings are known for the project site. No sensitive animal species were observed during a site survey completed by WRA, environmental consultants, in May 2007.

There was a recorded occurrence of western pond turtle, a California Department of Fish and Game Species of Special Concern, in the Guadalupe River just west of the project site.

4.4.2 Environmental Checklist and Discussion of Impacts

BIOLOGICAL RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,6
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,6
3) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,6

BIOLOGICAL RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,6
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,6
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

The project proposes construction of approximately 398,350 gross square feet of industrial park/ office/R&D use and paved surface parking lots on the site. The project would not remove any existing street trees. The project includes landscaping trees, shrubs, vines and groundcover around the buildings and throughout the project site. Additionally, the project will landscape the riparian corridor setback and PG&E easement with native, drought-tolerant plants that are acceptable to the SCVWD and PG&E.

4.4.2.1 *City of San José Riparian Corridor Policy*

A riparian delineation was completed for the project by WRA in May 2007. A copy of this report is provided in Appendix A of this Addendum. The edge of the riparian corridor was determined to be the westernmost edge of the service road (and in several areas the dripline of riparian trees that extend beyond the edge of the service road). As long as development is set back 100 feet from the above referenced riparian delineation, the proposed project would be in compliance with the City’s Riparian Corridor Policy.

Based on the conceptual site plan provided by the project applicant, the project does not propose any development within the minimum 100-foot setback from the edge of the Guadalupe River riparian corridor. Additional open space area is provided along the west edge of the site within a PG&E transmission tower easement. The easement areas will be landscaped in accordance with Santa Clara Valley Water District (SCVWD) and PG&E requirements, respectively, and will also include trails, benches and tables. Native, drought tolerant and watershed specific plants will be planted to minimize water consumption and maintenance, provide wildlife habitat and maximize shade. For these reasons, the project is consistent with the City’s Riparian Corridor Policy.

The proposed project would not result in significant impacts to the riparian corridor of the Guadalupe River.

4.4.2.2 *Special-Status Plants and Animals*

As discussed above, due to the lack of suitable habitat, special-status plant and animal species are not likely to occur on-site. There are no trees on the site, so the site would not provide nesting habitat for nesting raptors; with the possible exception of Burrowing Owl, described below.

While no Burrowing Owl or signs of Burrowing Owl were observed within the project site, there have been historic occurrences nearby. The loss of reproductive effort for individual birds would be inconsistent with the Migratory Bird Treaty Act and a significant impact. The loss of Burrowing Owl habitat was previously offset through replacement habitat through a *Mitigation Agreement between Agilent Technologies, Inc. and the California Department of Fish and Game* [Ref. No. 1802- 2000-073-3, 2000]. In this agreement, CDFG recommends a 250-foot buffer around an active burrow in the nesting season (February 1 to August 31) and a 165-foot buffer in the non-nesting season. The *Mitigation Agreement* was established when the project site was part of a much larger parcel. The loss of on-site Burrowing Owl habitat represents an increment of the overall 600 acres of affected habitat evaluated in the NSJ FPEIR. The NSJ FPEIR identified the loss of up to 600 acres of Burrowing Owl habitat as a significant, unavoidable impact.

While no western pond turtles were observed on the site and are not expected to occur on the site, the upland habitat in the site may be attractive to pond turtles as nesting habitat. Along large slow-moving streams, pond turtle eggs are deposited in nests constructed in sandy banks. The project will install an exclusion fence prior to ground disturbance along the southern portion of the Project Area that borders the Guadalupe River. The exclusion fence would deter turtles from seeking potential nesting habitat within the Project Area.

Standard Measure: The project proposes to implement the following standard measure to reduce impacts to nesting raptors:

- If future ground disturbance or vegetation removal is to take place within the breeding bird season (February through August), surveys for active nests will be completed within one month prior to the onset of any grading or construction activities. If an active nest is observed, an exclusion buffer of 50 to 500 feet (depending on the species and location and in consultation with CDFG) will be provided. Most common passerine birds are afforded a 50-foot buffer while more sensitive species may require up to 500 feet. The exclusion buffer will need to be maintained until the nesting period has ended. These bird surveys will not be necessary if initial ground disturbance or vegetation removal occurs between September and January, outside of the bird
- A preconstruction Burrowing Owl survey will be conducted prior to vegetation removal or ground disturbance to ensure there are no direct impacts to Burrowing Owl during site clearing. This survey may be done in concurrence with the breeding bird survey. A preconstruction Burrowing Owl survey, but not breeding bird survey, would also be necessary during the non-breeding season as the owls may use the ground squirrel burrows on site for overwintering habitat. If an occupied burrow is observed, either eviction of owls or buffer zones may be pursued following the conditions outlined on Page 2, Section 3 of the *Mitigation Agreement between Agilent Technologies, Inc. and*

the California Department of Fish and Game [Ref. No. 1802- 2000-073-3, 2000]. In this agreement, CDFG recommends a 250-foot buffer around an active burrow in the nesting season (February 1 to August 31) and a 165-foot buffer in the non-nesting season. The *Mitigation Agreement* was established when the project site was part of a much larger parcel.

- Because of the nearby western pond turtle occurrence in the Guadalupe River, an exclusion fence will be installed prior to ground disturbance along the southern portion of the Project Area that borders the Guadalupe River. The exclusion fence would be intended to deter turtles from seeking potential nesting habitat within the Project Area.

4.4.3 Conclusion

Impact BIO – 1: The proposed project, with the implementation of the above standard measures, would not result in any new or more significant impacts to biological resources than those addressed in the certified 2005 NSJ FPEIR.
(No New Impact)

4.5 CULTURAL RESOURCES

An archaeological literature review and field inspection was previously completed for the site in July 1992 by *Holman & Associates*. The purpose of the report was to identify cultural properties including prehistoric and historic archaeological sites, historic features and standing structures which may be eligible for inclusion on the California Register or Historical Resources (CRHR) in or adjacent to the project. A copy of this report is on file with the City of San José Planning Division located at 200 East Santa Clara Street, San José, California 95113 and can be viewed during normal business hours.

4.5.1 Setting

A prehistoric and historic site record and literature search was completed by the California Historical Resources Information System, Northwest Information Center, Sonoma State University, Rohnert Park.

4.5.1.1 *Prehistoric & Historic Resources*

The project site was subject to a series of studies in the 1970's, during which time one historic site, Scl-311H was eventually recorded. Scl-311H was described as "The original path of Trimble Road from North First Street to Guadalupe River, located in the floodplain of the Guadalupe, on the east side of the River, called Mission Road extending from Spanish Bridge to Alviso-San Jose Road." No known historic features were suspected along the road alignment, but several adobes and other structures were located to the northwest, outside of the project area. At the time of the recording in 1978, a portion of the road alignment had already been destroyed by then existing Hewlett Packard buildings and the remainder of the alignment was in areas being utilized for agriculture.

The field inspection found no traces of prehistoric or historic materials or resources associated with the former road. There are no structures on the site.

4.5.2 Environmental Checklist and Discussion of Impacts

CULTURAL RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	9
2) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	9
3) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	9
4) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	9

The project proposed minimal grading to install utilities and provide level building pads with positive drainage. No below grade parking is proposed by the project.

4.5.2.1 *Prehistoric Resources*

While no traces of aboriginal presence or historic materials were observed on the site during the field inspection, there remains a high potential for buried cultural deposits or human burials to be present, due to the location of the site adjacent to the Guadalupe River. Development of the project site has the potential for exposing buried prehistoric cultural resources. Disturbance of buried prehistoric archaeological resources would be a significant impact.

The proposed project would not result in any new or more significant impacts to archaeological resources than were described in the certified 2005 NSJ FPEIR.

Impact CUL – 1: The development of the proposed project could impact unknown archaeological resources. **(Significant Impact)**

Mitigation Measure: The project proposes to implement the following mitigation measure to reduce impacts to prehistoric cultural resources to a less than significant level:

MM CUL – 1.1: In the event the project requires trenching or grading below six feet either within 200 feet of the existing Guadalupe River bank or within 100 feet of North First Street, a qualified professional archaeologist shall monitor all ground disturbing construction. The qualified professional archaeologist in charge shall have the flexibility to vary the monitoring intensity, depending on what is being viewed and the depth of the excavation.

- If any significant cultural resources¹ are exposed or discovered during preparation or subsurface construction activities, operations shall be stopped within a radius of 50 feet of the find. The Director of Planning, Building, and Code Enforcement shall be notified and a qualified professional archaeologist shall examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. Recommendations could include collection, recordation, and analysis of any significant cultural materials.

Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American.

If the Coroner determines that the remains are not subject to his/her authority, the Native American Heritage Commission shall be notified to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

- If the Director of Planning, Building, and Code Enforcement finds that the archaeological find is not a significant resource, work would resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted.
- A final report shall be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report shall include background

¹ Significant prehistoric cultural materials may include: human bone – either isolated or intact burials; habitation (occupation or ceremonial structures as interpreted from rock rings/features, distinct ground depressions, differences in compaction); artifacts including chipping stone objects such as projectile points and bifaces, groundstone artifacts such as manos, metates, mortars, pestles, grinding stones, pitted hammerstones, and shell and bone artifacts including ornaments and beads; various features and samples including hearths (fire-cracked rock, baked and vitrified clay), artifact caches, faunal and shellfish remains (which permit dietary reconstruction), distinctive changes in soil stratigraphy indicative of prehistoric activities; and isolated artifacts.

Significant historic cultural materials may include finds from the late 19th through early 20th centuries. Objects and features associated with the Historic Period can include: structural remains or portions of foundations (bricks, cobbles/boulders, stacked field stone, postholes, etc.); trash pits, privies, wells, and associated artifacts; isolated artifacts or isolated clusters of manufactured artifacts (e.g., glass bottles, metal cans, manufactured wood items, etc); and human remains. In addition, cultural materials including both artifacts and structures that can be attributed to Hispanic, Asian, and other ethnic or racial groups are potentially significant. Such features or clusters of artifacts and samples include remains of structures, trash pits, and privies.

information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions.

4.5.3 Conclusion

Impact CUL – 1: The proposed project, with the implementation of the above mitigation measure, would not result in any new or more significant impacts to cultural resources than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.6 GEOLOGY AND SOILS

The following discussion is based on a geotechnical investigation completed by *Treadwell & Rollo*, in October 2007 for the project site. A copy of this report is included as Appendix B of this Addendum.

4.6.1 Setting

4.6.1.1 *Geological Features*

The project area is located in the Santa Clara Valley, between the base of the western foothills of the Hamilton-Diablo Mountain Range and the northeasterly foothills of the Santa Cruz Mountains, in the Coast Range Geomorphic Province of Central California. Bedrock underlying the area is part of the Franciscan Complex, a diverse group of igneous, sedimentary, and metamorphic rocks of the Upper Jurassic to Cretaceous age (70 to 140 million years old). These rocks are part of a northwesterly-trending belt of material that lies along the east side of the San Andreas Fault system, which is located approximately 12 miles southwest of the area. The Franciscan Complex is overlain by alluvium deposits of Holocene age (less than two million years old). This alluvium is comprised primarily of clay, silt, sand, and gravel. Below surface soils, older alluvial soils, extend to depths of greater than 950 feet.

4.6.1.2 *On-Site Geologic Conditions*

Soil testing indicate that the project site is underlain by interbedded layers of soft to very stiff clay and silt, with varying amounts of sand, and loose to dense sand with varying amounts of clay and silt, to the maximum depth explored of 120 feet below ground surface (bgs). The near surface (upper three feet) silt and clay is moderately to highly expansive. Expansive soils shrink and swell as a result of moisture changes. These changes can cause heaving and cracking of slabs-on-grade, pavements and structures found on shallow foundations.

Groundwater was measured at depths of about eight feet bgs. Fluctuations in the level of groundwater may occur due to variations in rainfall, underground drainage patterns, and other factors. Considering that the testing was completed in the spring, the groundwater level was likely higher than the average groundwater level for the site.

Seismicity

The San Francisco Bay Area is one of the most seismically active regions in the United States. Santa Clara County is classified as Zone 4, the most seismically active zone. An earthquake of moderate to high magnitude generated within the San Francisco Bay region could cause considerable ground shaking at the project site. The degree of shaking is dependent on the magnitude of the event, the distance to its zone of rupture and local geologic conditions.

The three major fault lines in the region are the San Andreas Fault, Calaveras Fault, and Hayward Fault. The San Andreas Fault runs north/south and parallel to the Hayward Fault and the Calaveras Fault line. The San Andreas Fault is approximately 13 miles west of the site, the Calaveras Fault is approximately nine miles east of the site, and the Hayward Fault is approximately five miles east of the site.

The project site is not located within a fault rupture hazard zone, and therefore, fault rupture through the site is not anticipated.

Liquefaction

Soil liquefaction is a condition where saturated granular soils near the ground surface undergo a substantial loss of strength during seismic events. Loose, water-saturated soils are transformed from a solid to a liquid state during ground shaking. Liquefaction can result in significant deformations. Soils most susceptible to liquefaction are loose, uniformly graded, saturated, fine-grained sands that lie close to the ground surface. The project site is located within a liquefaction hazard zone.

The subsurface investigation found intermittent layers of saturated sandy soil with varying amounts of clay and silt present at the site. A majority of these layers are either sufficiently dense or contain sufficient fines content to resist soil liquefaction. Many of the loose and medium dense layers are not expected to liquefy based on soil plasticity. Several thin layers of sandy soil at the site, however, are believed to be potentially liquefiable during a major earthquake. It is estimated that up to five (5) inches of liquefaction-induced settlement may occur at locations across the site.

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. The liquefiable layers are relatively thin and discontinuous; therefore, the potential for ground rupture, sand boils, and lateral spreading to occur at the site is low.

4.6.2 Environmental Checklist and Discussion of Impacts

GEOLOGY AND SOILS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:						
a) Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,8
b) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,8
c) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,8
d) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,8

GEOLOGY AND SOILS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
2) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,8
3) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,8
4) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,8
5) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2

4.6.2.1 On-Site Soils

The soils on-site have a moderate to high expansion potential and therefore, soils may expand and contract as a result of seasonal or man-made soil moisture conditions. Expansive soil conditions could potentially damage the future development on the site, which would represent a significant impact unless avoided by incorporating appropriate engineering into grading and foundation design. The proposed project is not expected to be exposed to slope instability, erosion, or landslide-related hazards, due to the flat topography of the project site.

The proposed project would not result in any new or more significant soil related impacts than were described in the certified 2005 NSJ FPEIR.

Impact GEO – 1: Due to the expansion potential of the soils on-site, there is a potential to expose people and structures to significant geological hazards. **(Significant Impact)**

Mitigation Measures: The project proposes to implement the following mitigation measures to reduce geologic hazard impacts:

MM GEO – 1.1: Design and construct buildings in accordance with the design-level geotechnical investigation prepared for the project site, which identifies the specific design features that will be required for the project, including site preparation, compaction, trench excavations, foundation and subgrade design,

drainage, and pavement design. The geotechnical investigation shall be reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance for the project.

MM GEO – 1.2: Implement standard grading and best management practices to prevent substantial erosion and siltation during development of the site.

4.6.2.2 *Seismicity and Seismic Hazards*

The project site is located in a seismically active region, and therefore, strong ground shaking would be expected during the lifetime of the proposed project. Ground shaking could damage buildings and other proposed structures, and threaten the welfare of future occupants. The project site is located within a liquefaction hazard zone and, based upon the results of the subsurface investigation, it is estimated that up to five (5) inches of liquefaction-induced settlement may occur at locations across the site. Liquefiable soils were identified and evaluated in the NSJ FPEIR. The proposed project would not result in any new or more significant seismic related hazard impacts than were described in the certified 2005 NSJ FPEIR.

Impact GEO – 2: The project is subject seismic-related hazards. **(Significant Impact)**

Mitigation Measure: The following mitigation measure is identified as part of the certified 2005 NSJ FPEIR to be required of future development in North San José and is proposed by the project:

MM GEO 2.1: The project shall be designed and constructed in conformance with Uniform Building Code guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking and seismic-related hazards on the site.

4.6.2.3 *Guadalupe River*

The Guadalupe River is adjacent to the west of the project site and a levee and berm separates the east side of the Guadalupe River from the site. The levee has been engineered for flood control.

Based on the subsurface conditions on-site, there is a potential for liquefaction and associated lateral spreading to occur below the levees. There is a possibility, although remote that some movement or possibly breaching of the levee could occur if a significant earthquake occurred. Flooding of the site could occur. Flooding on-site is discussed in **Section 4.8 Hydrology and Water Quality**.

4.6.3 Conclusion

Impact GEO – 1: The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant geologic impacts from expansive soils on-site than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

Impact GEO – 2: The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant geological impacts relating to seismic and seismic-related hazards than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.7 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based upon an environmental site assessment completed by *ENV America* in August 2007. The purpose of the assessment was to identify recognized environmental conditions on the project site related to current and historic use of hazardous substances and petroleum products.² A copy of this report is included as Appendix C of this Addendum.

4.7.1 Setting

4.7.1.1 *Background Information*

Hazardous materials encompass a wide range of substances, some of which are naturally-occurring and some of which are man-made. Examples include pesticides, herbicides, petroleum products, metals (e.g., lead, mercury, arsenic), asbestos, and chemical compounds used in manufacturing. Determining if such substances are present on or near project sites is important because, by definition, exposure to hazardous materials above regulatory thresholds can result in adverse health effects on humans, as well as harm to plant and wildlife ecology.

Due to the fact that these substances have properties that are toxic to humans and/or the ecosystem, there are multiple regulatory programs in place that are designed to minimize the chance for unintended releases and/or exposures to occur. Other programs set remediation requirements at sites where contamination has occurred.

4.7.1.2 *Site Conditions and Potential On-Site Sources of Contamination*

No evidence of prior development or of past or existing structures exists at the site. The site appears to have been used historically as agricultural land but is currently fallow and covered by weeds.

Based upon a review of historic photographs, the site was in agricultural use since at least 1939. There were no sources of hazardous substances, drums, or other chemical containers observed during the site inspection that was completed on May 25, 2007. No evidence of pits, ponds, septic systems, wastewater, or sumps was observed, or signs of stressed vegetation or discolored surface soils.

A previous environmental site assessment was completed by *Levine-Fricke* for the 1994 zoning that covered a much larger area than the proposed rezoning and PD Permit. Because the site was used for agriculture, shallow soil samples were collected on the site to assess the possible presence of residual pesticides and metals in the soil. Soil samples were taken from 45 randomly selected locations on the site. The soil sampling identified residual concentrations of pesticides in the undeveloped portions of the site; however, these concentrations are typical of residual pesticides found in former agricultural areas throughout the Santa Clara Valley. The materials were consistent with background concentrations for the area and were below the levels of concern for commercial uses.

² The term “recognized environmental conditions” means the presence or likely presence of hazardous substances or petroleum products on a property under conditions that indicate a significant release or significant threat of a release into the ground, groundwater, or surface water.

4.7.1.3 *Potential Off-Site Sources of Contamination*

Database and File Review

A database search was completed for the purpose of identifying all sites within the project area where there are known or suspected sources of contamination, as well as sites that handle or store hazardous materials. Federal, state, local, historical, and brownfield databases were searched. The databases searched and results are included in Appendix C of this EIR.

The database search identified more than 100 sites within an approximate one-mile radius of the Site. Based on the distance of the identified properties relative to the Site, the inferred direction of shallow groundwater flow (to the west), the regulatory designation and status of the properties, and the nature and scale of soil and groundwater impact at the properties, it is unlikely that the properties identified have affected Project Site soil or groundwater. All but seven sites are on the opposite bank of the Guadalupe River and are thus probably separated hydrologically. Of the sites on the east side of the Guadalupe, the first three are immediately adjacent to the Site, the next two are within one-eighth mile, and the last two are within one mile:

- *Agilent Technologies, Inc.* appeared on the LUST1 database with a facility status listed as case closed;
- *Avago Technologies US, Inc.* was listed on the CA HAZNET2 database as a large quantity generator of inorganic solid waste disposed of by treatment and incineration. *Avago* had three compliance evaluation inspection violations from 1994-2005 for “generator – general requirements” and is listed as NFRAP (No Further Remedial Action Planned);
- *Lumileds Lighting US LLC* (formerly an optoelectronics division of Hewlett Packard) is listed on the CA HAZNET database as a large quantity generator of metal sludge with unreported disposal mechanisms and one 2005 compliance evaluation inspection violation for “generator – general requirements”. These facilities appear to be down or cross gradient, and thus are unlikely to impact the subject site;
- *S.J. Water System*, which is listed on the San Jose Hazmat database with no facility information;
- *Zitel Corp* at 399 West Trimble Road is listed as a small quantity generator with no violations;
- *Autek Systems Corp.* at 109 Bonaventura Drive, which is listed on the CERCLIS3 database as a low priority corrective action site with unknown status; and
- *Multichip Technology* at 58 Daggett Drive, determined by the RWQCB to have no further action required on dichloroethylene contaminated soil.

All seven of the above-listed facilities are hydraulically cross or down gradient and are unlikely to impact the subject site. Based upon the results of the Phase I environmental site assessment, no recognized environmental conditions or historical recognized environmental conditions exist in connection with the site.

4.7.2 Environmental Checklist and Discussion of Impacts

HAZARDS AND HAZARDOUS MATERIALS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Create a significant hazard to human beings or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2, 10
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,10
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,10
6) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2
7) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

HAZARDS AND HAZARDOUS MATERIALS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project: 8) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

4.7.2.1 *Possible Sources of Impact*

Based upon information described above, there is no evidence of on-site soil contamination and no hazardous material incidents have been reported in the site vicinity that would be likely to significantly impact the site, and no remediation is required. Soil sampling identified residual concentrations of pesticides on the site; however, these concentrations are typical of residual pesticides found in former agricultural areas throughout the Santa Clara Valley. The materials were consistent with background concentrations for the area and were below the levels of concern for commercial uses. Therefore, the presence of these materials on the site is not anticipated to result in a significant impact to the project.

Proposed industrial park/R&D/office use would not involve the use of substantial amounts of hazardous materials. Should R&D businesses occupy the site that use, store, and/or transport hazardous materials, the implementation and enforcement of local, state, and federal regulations regarding hazardous materials would minimize impacts from such use to a less-than-significant level. For these reasons, the proposed project would not result in any new or more significant impacts to hazardous materials than were described in the certified 2005 NSJ FPEIR.

4.7.3 Conclusion

The proposed project would not result in hazardous materials impacts. **(No New Impact)**

4.8 HYDROLOGY AND WATER QUALITY

4.8.1 Setting

The existing drainage and regulatory requirements regarding hydrology and water quality are generally unchanged from the certified 2005 NSJ FPEIR. The primary changes are the update of the North San José Floodplain Management Study reflecting the completion of flood control projects for Coyote Creek and Lower Guadalupe River, the City's update of its *Post-Construction Urban Runoff Management* (Policy 6-29), and the City's adoption of the *Post-Construction Hydromodification Management* (Policy 8-14).

The project site is currently undeveloped and completely pervious. The site lies within the Guadalupe River watershed. The site has access to a 96-inch storm drain line in Orchard Parkway. Numerous catch basins exist along the site frontage on Orchard Parkway. These systems discharge to the Guadalupe River, which ultimately flows into the San Francisco Bay.

4.8.1.1 *Flooding*

The North San José Floodplain Management Study was updated in June 2006. Existing flood conditions in North San José have been changed by completion of flood control projects for Coyote Creek and Lower Guadalupe River. The flood control projects have increased the stream channel flood capacity and reduced the potential for overflows from the stream channels into the North San José area. With the flood control projects, the flood potential has been reduced to residual shallow flooding primarily due to storm drain excess flows which exceed the capacity of the storm drain systems during a 100-year storm. The project site is designated as Zone AH (Elev. 27) and Zone A0 (depth 1) according to the FEMA Flood Insurance Rate Map (FIRM).³ The flood designation means that flood waters may puddle up to one foot in depth at locations below elevation 27 feet (NAVD 88) during a 100-year flood event. The existing elevation of the site ranges from 26 to 28 feet.

The updated 2006 North San Jose Floodplain Management Study identifies building criteria to protect against flooding and increased flooding potential. The updated study identifies areas subject to flooding and the effective flood elevations. In flooding areas (including the project site) this criterion includes blockage criteria, minimum finished floor elevations, development controls to limit building footprints and allow flows through the site. The project site is in an area with an allowable 75 percent blockage, according to the Floodplain Management Study.

³ FEMA FIRM Community Panel Number 060349E, dated February 1986, revised to reflect Letter of Map Revision (LOMR) dated October 25, 2006.

4.8.1.2 Regulatory Requirements

City of San José Post-Construction Urban Runoff Management (Policy 6-29)

The City of San José's Policy No. 6-29 requires all new and redevelopment projects to implement Post-Construction Best Management Practices (BMPs)⁴ and Treatment Control Measures (TCMs)⁵ to the maximum extent practicable. This Policy also establishes specific design standards for Post-Construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

City of San José Post-Construction Hydromodification Management (Policy 8-14)

In 2005, the City of San José adopted the Post-Construction Hydromodification Management (Policy 8-14) to manage development related increases in peak runoff flow, volume and duration, where such hydromodification⁶ is likely to cause increased erosion, silt pollution generation, or other impacts to local rivers, streams, and creeks.

Policy 8-14 requires stormwater discharges from new and redevelopment projects that create or replace one acre (43,560 square feet) or more of impervious surfaces to be designed and built to control project-related hydromodification, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to beneficial uses of local rivers, streams, and creeks. The Policy establishes specified performance criteria for Post-Construction Hydromodification control measures (HCMs) and identifies projects which are exempt from HCM requirements. For example, projects are exempt that do not increase the impervious area of a site, as are projects that drain to exempt channels, projects that drain to stream channels within the tidally influenced area, or projects that drain to non-earthen stream channels that are hardened on three sides and extend continuously upstream from the tidally influenced area.

⁴ Post-Construction Best Management Practices (BMPs) are methods, activities, maintenance procedures, or other management practices designed to reduce the amount of stormwater pollutant loading from a site. Examples of Post-Construction BMPs include proper materials storage and housekeeping activities, public and employee education programs, and storm inlet maintenance and stenciling.

⁵ Post-Construction Treatment Control Measures are site design measures, landscape characteristics or permanent stormwater pollution prevention devices installed and maintained as part of a new development or redevelopment project to reduce stormwater pollution loading from the site; is installed as part of a new development or redevelopment project; and is maintained in place after construction has been completed. Examples of runoff treatment control measures include filtration and infiltration devices (e.g., vegetative swales/biofilters, insert filters, and oil/water separators) or detention/retention measures (e.g., detention/retention ponds). Post-Construction TCMs are a category of BMPs.

⁶ Hydromodification occurs when the total area of impervious surfaces increases resulting in the decrease of rainfall infiltration, which causes more water to run off the surface as overland flow at a faster rate. Storms that previously did not produce runoff from a property under previous conditions can produce erosive flows in creeks. The increase in the volume of runoff and the length of time that erosive flows occur intensifies sediment transport, increasing creek scouring and erosion and causing changes in stream shape and conditions, which can, in turn, impair the beneficial uses of the stream channels.

4.8.2 Environmental Checklist and Discussion of Impacts

HYDROLOGY AND WATER QUALITY						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,11
5) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
6) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
7) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

HYDROLOGY AND WATER QUALITY						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,11
9) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
10) Be subject to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

4.8.2.1 Drainage and Water Quality

The entire site (16.35 acres) is currently undeveloped and covered with pervious surfaces (refer to Table 4.0-1).

The project proposes to construct two buildings and surface parking on the site. With the development of the proposed project, approximately 72 percent (11.77 acres) of the project site would be impervious and approximately 28 percent (4.58 acres) of the site would be pervious. The proposed project, therefore, would result in a 72 percent (11.77 acres) increase in impervious surfaces (refer to Table 4.0-1).

Table 4.0-1 Summary of Impervious and Pervious Surfaces On-Site						
Site Surface	Existing/Pre-Construction (acres)	%	Project/Post-Construction (acres)	%	Difference (acres)	%
Impervious						
Building Footprint	---	---	1.53	9.4	+1.53	+9.4
Parking/Driveways/ Streets	---	---	10.24	62.6	+0.24	+62.6
<i>Subtotal</i>	---	---	<i>11.77</i>	<i>72</i>	<i>+11.77</i>	<i>+72.0</i>
Pervious						
Landscaping	16.35	100	4.58	28	-11.77	-72.0
<i>Subtotal</i>	<i>16.35</i>	<i>100</i>	<i>4.58</i>	<i>28</i>	<i>-11.77</i>	<i>-72.0</i>
Total	16.35	100	16.35	100		

The project proposes a storm water quality control plan that includes implementation of the following best management practices (BMPs): 1) bio-retention treatment planters (BTPs), and 2) vegetated swales. These features treat runoff by slowing flow velocities and trapping and filtering pollutants.

Runoff during a 10-year storm event will be directed into the on-site storm drain system and then pumped to multiple on-site bio-retention treatment planters (BTPs) and swales. The runoff will filter through the BTPs and swales and be directed to the existing storm drain system in Orchard Parkway. The peak discharge will be reduced by the incidental detention in the BTPs and swales. The BTPs and swales will be designed to flood up to two inches before the runoff flows into an overflow drain to prevent flooding nearby hardscape during heavy storms.

Two BTPs will be constructed to treat a portion of the site runoff. Design guidelines for infiltration planters specify that a 0.04 ratio of planter surface area to tributary impervious area must be maintained throughout the site. Pollutants are removed within the planters as runoff passes through the soil layer and is collected in an underlying layer of gravel or drain rock. Treated runoff is then collected by a perforated pipe and carried to the Orchard Parkway storm drain system. Flows entering the planter that exceed the infiltration rate of the soil and allowed two-inch ponding depth would be collected by an overflow pipe that connects directly to the storm drain system within the site.

The remaining portion of the site will be treated by two swales located near Atmel Way. Pollutants are removed as the water travels through the grass in the swales and infiltrates through the soil. Treated water is collected in perforated pipe and directed to the Orchard Parkway storm drain system.

The proposed project will result in an increase in impervious surfaces, but the site runoff, with the proposed BMPs described above, is not expected to exceed the capacity of the existing 96-inch storm drain line in Orchard Parkway. The proposed project would not result in any new or more significant drainage impacts than were described in the certified 2005 NSJ FPEIR.

4.8.2.2 *Flooding*

A hydraulic model of the project site was prepared by BKF Engineers to evaluate the 75% blockage criteria identified in the updated 2006 North San Jose Floodplain Management Study (refer to Appendix D). The project condition was based on site and grading plans for the project (November 8, 2007). Based on the analysis by BKF, the proposed project would result in a maximum 23 percent flood blockage and no impacts from impediment to flood flow would occur. The analysis was based upon a preliminary grading plan; however, it was determined that even if the blockage length doubled, the project would still be in conformance of the 75 percent maximum blockage criteria.⁷ In addition, proposed buildings would be constructed on raised pads to elevate the lowest finish floors above the floodplain.

The 2005 NSJ FPEIR identified significant impacts from periodic flooding in the NSJ area that could cause harm to people or structures. Mitigation was identified in the FPEIR to reduce flooding impacts to a less-than-significant level through compliance with the City of San Jose Floodplain Management Ordinance. As described above, the project is consistent with the criteria set forth in

⁷ The project will limit areas greater than elevation 31 feet to have cross-sectional widths equal to the building widths.

this ordinance, based on the updated 2006 Floodplain Management Study. The project will not result in new or increased flooding impacts beyond those already identified in the 2005 NSJ FPEIR.

Impact HYD – 1: The proposed project would develop structures within a 100-year flood area. **(Significant Impact)**

Mitigation Measures: The project proposes to implement the following mitigation measures to reduce flooding impacts on the site to a less than significant level:

MM HYD – 1.1: The finished floor of structures shall be located at or above the flood elevation of 27 feet (NAVD 88).

MM HYD – 1.2: The project will conform to the site’s 75 percent maximum blockage criteria defined in the 2006 North San Jose Floodplain Management Study.

4.8.2.3 Construction-Related Water Quality Impacts

Construction of the proposed project, as well as demolition, grading, and excavation activities, may result in temporary impacts to surface water quality. Demolition of the existing buildings and construction of the proposed project would also result in a disturbance to the underlying soils, thereby increasing the potential for sedimentation and erosion. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drain system.

The development of the proposed project would contribute to the significant construction-related water quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project would not, however, result in any new or more significant construction-related water quality impacts than were described in the certified 2005 NSJ FPEIR.

Impact HYD – 2: The proposed project would result in construction-related water quality impacts. **(Significant Impact)**

Mitigation Measures: The following mitigation measures are identified as part of the certified 2005 NSJ FPEIR and are proposed by the project:

MM HYD – 2.1: Compliance with the NPDES General Construction Activity Stormwater Permit administered by the Regional Water Quality Control Board. Prior to future construction or grading for project with land disturbance of one acre or more, applicants shall be required to file a “Notice of Intent” (NOI) to comply with the General Permit and prepare a Stormwater Pollution Prevention Plan (SWPPP) that addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Copies of the SWPPP shall be submitted to the City of San José Department of Public Works. The following measures typically are included in a SWPPP:

- Preclude non-stormwater discharges to the stormwater system.
- Incorporate effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.

- Cover soil, equipment, and supplies that could contribute pollution prior to rainfall events or monitor runoff.
- Perform monitoring of discharges to the stormwater system.

MM HYD – 2.2: Comply with the City’s Grading Ordinance.

Post-Construction Impacts

Stormwater runoff from urban uses contains metals, pesticides, herbicides, and other contaminants such as oil, grease, lead, and animal waste. Runoff from the proposed project may contain increased oil and grease from parked vehicles, as well as sediment and chemicals (i.e., fertilizers and pesticides) from landscaped areas.

The amount of pollution carried by runoff from the site would increase accordingly with increased intensity of use. The project would increase traffic and human activity on and around the project site, generating more pollutants and increasing dust, litter, and other contaminants that would be washed into the storm drain system. The project, therefore, would generate increase in water contaminants that could be carried downstream in stormwater runoff from paved surfaces on the site.

The development of the proposed project would contribute to the significant post-construction related water quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project, however, would not result in any new or more significant post-construction related water quality impacts than were described in the certified 2005 NSJ FPEIR.

Impact HYD - 3: The proposed project would result in post-construction water quality impacts. **(Significant Impact)**

Mitigation Measure: The following mitigation measure is identified as part of the certified 2005 NSJ FPEIR and is proposed by the project:

MM HYD – 3.1: Compliance with Council Policies 6-29 and 8-14 is required at the development permit stage and shall be demonstrated by incorporating BMPs and TCMs which include, but are not limited to, the following:

- The project proposes a storm water quality control plan that includes implementation of the following best management practices (BMPs): 1) bio-retention treatment planters (BTPs), and 2) vegetated swales. These features treat runoff from building roofs and parking lots by slowing flow velocities and trapping and filtering pollutants.
- Runoff during a 10-year storm event will be directed into the on-site storm drain system and then pumped to multiple on-site bio-retention treatment planters (BTPs) and swales. The runoff will filter through the BTPs and swales and be directed to the existing storm drain system in Orchard Parkway. The peak discharge will be reduced by the incidental detention in the BTPs and swales. The BTPs and swales will be designed to flood up to two inches before the runoff flows into an overflow drain to prevent flooding nearby hardscape during heavy storms.

- Two BTPs will be constructed to treat a portion of the site runoff. Design guidelines for infiltration planters specify that a 0.04 ratio of planter surface area to tributary impervious area must be maintained throughout the site. Pollutants are removed within the planters as runoff passes through the soil layer and is collected in an underlying layer or gravel or drain rock. Treated runoff is then collected by a perforated pipe and carried to the Orchard Parkway storm drain system. Flows entering the planter that exceed the infiltration rate of the soil and allowed two-inch ponding depth would be collected by an overflow pipe that connects directly to the storm drain system within the site.
- The remaining portion of the site will be treated by two swales located near Atmel Way. Pollutants are removed as the water travels through the grass in the swales and infiltrates through the soil. Treated water is collected in perforated pipe and directed to the Orchard Parkway storm drain system.
- All of the stormwater treatment areas will be numerically sized, in accordance with City requirements.

4.8.3 Conclusion

- Impact HYD – 1:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant flooding impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**
- Impact HYD – 2:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant construction-related impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**
- Impact HYD - 3:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant post-construction water quality impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.9 LAND USE

4.9.1 Setting

4.9.1.1 *Existing Land Use*

The 16.35-acre project site occupies a portion of APN 101-02-010, at the northwest corner of Orchard Parkway and Atmel Way. The site is current undeveloped, fallow land that contains no structures or landscaping.

4.9.1.2 *Surrounding Land Uses*

The site is bound by vacant and industrial uses to the north, vacant land to the east, industrial park uses to the south, Guadalupe River and industrial uses to the west.

4.9.1.3 *Land Use Plans*

General Plan Land Use Designation

The 16-35-acre project site is currently designated by the General Plan as *Industrial Park*. The *Industrial Park (IP)* designation allows industrial uses, including research and development, manufacturing and assembly, and offices.

Zoning Designation

The project site is zoned *IP(PD) Planned Development* through a Planned Development rezoning that was approved in March 1994 for a larger area of approximately 134 acres. The project site has a zoning designation of *IP – Industrial Park*. The current zoning does not specify the amount of development allowed on the subject site, but set an overall maximum Floor Area Ratio (FAR) of 0.70 that would equate to approximately 498,535 square feet of industrial park office development on the subject property.

4.9.1.4 *Other*

The project area is not part of a habitat conservation plan or natural community conservation plan.

4.9.2 Environmental Checklist and Discussion of Impacts

LAND USE						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,16
2) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,4, 16,17
3) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16

The project is a Director-initiated conforming rezoning to revise the height and setback regulations of the current zoning district to facilitate development more consistent with the goals and policies of the North San Jose Area Development Policy, including design measures intended to foster a pedestrian-oriented environment and promote transit use. The proposed rezoning will preserve the existing level of entitlement for the site but also allow the option of further intensification as provided for under the North San Jose Area Development Policy. The proposed rezoning would modify the allowable setback and height standards to be more permissive, consistent with the requirements of the IP – Industrial Park Zoning district as amended. No other changes are proposed to the allowed uses or other development standards of the current Planned Development zoning (PDC93-017).

The project also includes a PD Permit (File No. PD07-081) to construct approximately 398,350 gross square feet of office/R&D uses in two 6-story buildings, with surface parking.

4.9.2.1 Conformance with Land Use Plans**General Plan Land Use Designation**

The project site is designated by the General Plan as *Industrial Park (IP)*. The project would be consistent with the General Plan, since proposed office/R&D uses are consistent with the *Industrial Park* land use designation for the site.

Consistency with North San José Area Development Policy

The project will develop industrial park/office/R&D uses, which would help meet the goals and objectives of the NSJ Development Policy. The Policy calls for 26.7 up million square feet of industrial development and up to 1.7 million square feet of new commercial uses. Office/R&D uses on the project site would help fulfill a portion of the commercial and industrial square footage envisioned in the first phases of the NSJ Policy.

The proposed rezoning will facilitate development more consistent with the goals and policies of the North San Jose Area Development Policy, including design measures intended to foster a pedestrian-oriented environment and promote transit use.

The NSJ Final EIR identified the following significant land use impacts: 1) land use conflicts associated with introducing additional residential uses in industrial areas, and 2) secondary traffic impacts on residential uses from additional traffic on cut-through routes and near new intersections. The project does not propose residential uses, nor is it located in an area that will increase traffic in residential areas.

4.9.3 Conclusion

The proposed project would not result in any new or more significant land use compatibility impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.10 MINERAL RESOURCES

4.10.1 Setting

The project site is not located within any designated mineral deposit area of regional significance. Mineral exploration is not performed on the project site and the site does not contain any known or designated mineral resources.

4.10.2 Environmental Checklist and Discussion of Impacts

MINERAL RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,16

As discussed above, the project is not located within a designated area containing mineral deposits of regional significance and, therefore, would not result in the loss of availability of a known mineral resource, and no mineral excavation sites are present within the general area. The proposed project would not result in impacts to mineral resources.

The proposed project would not result in any new or more significant impacts to mineral resources than were described in the certified 2005 NSJ FPEIR.

4.10.3 Conclusion

The project would not result in any new or more significant impacts to mineral resources than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.11 NOISE**4.11.1 Setting**

The ambient noise conditions and regulatory requirements regarding noise have not changed since the certification of the 2005 NSJ FPEIR.

4.11.1.1 *Existing Noise Conditions*

The project site is located at the northwest corner of Orchard Parkway and Atmel Way (refer to Figure 2.0-2), and is currently undeveloped. The surrounding land uses include vacant and industrial land to north, vacant land to the east (that is proposed for industrial/office development), industrial park property to the south, and the Guadalupe River and industrial land to the west

The noise environment from the project site primarily results from transportation noise sources in the site vicinity including traffic on Orchard Parkway, North First Street, U.S. 101, and aircraft. The southwestern portion of the project site is within the 75-79 DNL contour for U.S. 101 freeway noise and the northeastern portion of the project is within the 65-69 DNL contour for freeway noise. The site is within the 60 CNEL contour for airport noise.

4.11.2 Environmental Checklist and Discussion of Impacts

NOISE						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project result in:						
1) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

NOISE						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project result in:						
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
6) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

The following criteria were used to evaluate the significance of noise impacts:

Noise and Land Use Compatibility. Changes in land use where existing or future noise levels exceed levels considered “satisfactory” in the San José General Plan would result in a significant impact.

Substantial Increase in Ambient Noise Levels. In areas where noise levels already exceed those considered satisfactory, and if the DNL due to the project would increase by more than three dBA at noise-sensitive receptors, the impact is considered significant.

Construction Noise. Construction activities produce temporary noise impacts. Since these impacts are generally short-term and vary considerably day-to-day, they are evaluated somewhat differently than operational impacts. When construction activities are predicted to cause prolonged interference with speech, sleep, or normal residential activities, the impact would be considered significant. Construction-related hourly average noise levels at noise-sensitive land uses above 70 dBA during the daytime and 55 dBA at night would be considered significant if the construction phase lasted more than 12 months.

Aircraft Noise. A significant impact would be identified if the project proposed noise-sensitive land use in the vicinity of the Norman Y. Mineta San José International Airport where noise levels exceeded the applicable standards of the Santa Clara County ALUC or the City of San José.

4.11.2.1 *Noise Impacts from the Project*

The project proposes to construct approximately 398,350 gross square feet of industrial park/office/R&D uses in two 6-story buildings with surface parking.

Short-Term Construction Impacts

Construction noise impacts primarily occur when construction activities occur during noise-sensitive times of the day (early morning, evening, or nighttime hours), in areas immediately adjoining noise sensitive land uses, or when construction occurs over extended periods of time. Significant noise impacts do not normally occur when standard construction noise control measures are enforced at the project site and when the duration of the noise generating construction period at a particular sensitive receptor is limited to one construction season (typically one year) or less. Reasonable regulation of the hours of construction, as well as regulation of the arrival and operation of heavy equipment and the delivery of construction materials reduce construction-related noise impacts.

The project site is surrounded by vacant land and industrial development. There are no noise-sensitive uses proximate to the site that would be adversely affected by project construction noise.

The proposed project would not result in any new or more significant construction-related impacts than were described in the certified 2005 NSJ FPEIR, which assumed construction would be occurring in North San José for many years in the future.

Impact NOI – 1: The proposed project would result in a short-term increase in noise levels in the project area during demolition and construction activities, but it would not adversely affect any noise-sensitive uses. **(Less than Significant Impact)**

Mitigation and Avoidance Measures: The certified 2005 NSJ FPEIR identifies construction noise as a significant impact that would be reduced to a less-than-significant level with incorporation of standard construction noise abatement measures. The following mitigation measures would be implemented during project construction to minimize construction noise disturbance to nearby industrial uses:

- MM NOI – 1.1:** Limit all construction-related activities to the hours of 7 AM to 6 PM Monday through Friday and 8 AM to 5 PM on Saturdays. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building, and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance to adjacent uses.
- MM NOI – 1.2:** Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- MM NOI – 1.3:** Locate stationary noise generating equipment as far as possible from sensitive receptors.
- MM NOI – 1.4:** Utilize “quiet” air compressors and other stationary noise sources where technology exists.

Traffic-Generated Noise Impacts

The NSJ FPEIR identified that future development in North San Jose would generate an increase in traffic along the local roadway network and substantially increase noise levels at noise sensitive receptors throughout North San Jose on a permanent basis.

In the project area, NSJ FPEIR traffic data indicate that future noise levels along Guadalupe Parkway, west of Orchard Parkway, would increase by approximately four dBA DNL, from 67 to 71 DNL dBA, which is a significant noise level increase. The project's contribution to the overall noise increase would be less. There are no sensitive receptors in the immediate vicinity of this roadway.

Development in the North San Jose area, including the proposed project, would attempt to reduce traffic-related noise by implementation of TDMs described in the FPEIR Air Quality and Transportation sections. Even with these measures, it was concluded in the certified 2005 NSJ FPEIR that noise impacts at some locations would remain significant and unavoidable and the City Council adopted a statement of overriding consideration for the impact.

Impact NOI – 2: Traffic from the proposed project would contribute to noise increases on roadways in the North San Jose area, which would result in significant and unavoidable impacts at some noise-sensitive receptors. This impact was identified in the certified 2005 NSJ FPEIR and the City Council adopted a statement of overriding consideration for the impact. **(No New Impact)**

4.11.2.2 Noise Impact to the Project

As described above, the site is within the 65-79 DNL noise contours for U.S. 101 freeway noise. The proposed industrial park/office use is not considered a noise-sensitive use. According to the City's noise policies, the acceptable interior noise levels would be 45 DNL or less. Standard industrial office construction (fixed windows and mechanical ventilation) would reduce the interior noise levels by approximately 30-35 dBA; therefore, the project will not result in impacts related to ambient noise levels.⁸

4.11.3 Conclusion

Impact NOI – 1: The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant short-term construction noise impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

Impact NOI – 2: Traffic from the proposed project would contribute to noise increases on roadways in the North San Jose area, which would result in significant and unavoidable impacts at some noise-sensitive receptors. This impact was identified in the certified 2005 NSJ FPEIR and the City Council adopted a statement of overriding consideration for the impact. **(No New Impact)**

⁸ Mr. Michael Thill, *Illingworth & Rodkin* noise consultants, personal conversation, November 2007.

4.12 POPULATION AND HOUSING

4.12.1 Setting

The current and future population and housing estimates and assumptions have not changed since the certification of the 2005 NSJ FPEIR. Currently, there are no residential uses on-site.

4.12.2 Environmental Checklist and Discussion of Impacts

POPULATION AND HOUSING						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

The project proposes industrial park/office/R&D uses on the site. The proposed project would not result in any new or more significant population growth and/or housing impacts than were described in the certified 2005 NSJ FPEIR.

4.12.3 Conclusion

The proposed project would not result in any new or more significant population growth or housing impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.13 PUBLIC SERVICES

4.13.1 Setting

The fire, police, school, and park services and facilities have not changed since the certification of the 2005 NSJ FPEIR. The nearest fire station is immediately west of the project site (refer to Figure 2.0-3).

4.13.2 Environmental Checklist and Discussion of Impacts

PUBLIC SERVICES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:						
Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2
Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2
Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2

4.13.2.1 *Fire and Police Service*

The closest fire station to the project is Station #20, located 1.3 miles south of the site at 1433 Airport Boulevard. The project would be constructed in conformance with current codes, including features that would reduce potential fire hazards. The project design would also be reviewed by the SJPd to ensure that it incorporates appropriate safety features to minimize criminal activity.

As discussed in the certified 2005 NSJ FPEIR, the buildout of the development analyzed would incrementally increase the need for fire and police protection services, which may create the need for additional staffing or resources, or a new fire station in the greater North San José project area. The increase in demand for fire and police services is not necessarily an environmental impact. The environmental impact, if it does occur, would generally result from the impacts on the physical environment that result from the physical changes made in order to meet the demand. Future development of new fire facilities in the project area would require supplemental environmental review which could consist of an Addendum or Supplemental EIR to the certified 2005 NSJ FPEIR.

It was concluded in the certified 2005 NSJ FPEIR that the construction of a new fire station in north San José would not have significant adverse environmental impacts.

Given the infill location of the project site and the fact that the site is already served by the SJFD and SJPD, it is not anticipated the development of the proposed project would result in significant impacts to police and fire services nor would this project alone require the construction of additional fire or police facilities. Furthermore, the proposed project would not result in any new or more significant impacts to fire and police service than were described in the certified 2005 NSJ FPEIR.

4.13.2.2 *Schools*

The project proposes industrial park/office/R&D space and, therefore, would not directly increase demand in school facilities. The project would not result in any new or more significant school impacts than were described in the certified 2005 NSJ FPEIR.

4.13.2.3 *Parks*

The project proposes industrial park/office/R&D use and would not generate a residential population that would increase demands on park and recreation facilities.

It is anticipated that the buildout of the development evaluated in the certified 2005 NSJ FPEIR would result in the incremental increase in the need for parks and recreational facilities, which are to be developed in the project area concurrently with residential development. Future development of new park and recreation facilities in the project area, however, would require supplemental environmental review which could consist of an Addendum or Supplemental EIR to the certified 2005 NSJ FPEIR. The project would not result in any new or more significant impacts to parks facilities than those addressed in the certified 2005 NSJ FPEIR.

4.13.3 Conclusion

The proposed project, with the implementation of the above standard measures, would not result in any new or more significant impacts to public services or facilities than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.14 RECREATION

4.14.1 Setting

The existing park and recreational facilities in the project area have not changed since the certification of the 2005 NSJ FPEIR.

4.14.2 Environmental Checklist and Discussion of Impacts

RECREATION						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

The project proposes industrial park/office/R&D use and would not generate a residential population that would increase demands on park and recreation facilities. The project would not result in any new or more significant impacts to parks facilities than those addressed in the certified 2005 NSJ FPEIR.

4.14.3 Conclusion

The proposed project, with the implementation of the above standard measure, would not result in significant impacts to recreational facilities than those addressed in the certified 2005 NSJ FPEIR.
(No New Impact)

4.15 TRANSPORTATION**4.15.1 Setting**

The transportation system in the project area, including regional and local roadways, bicycle and pedestrian facilities, and existing transit services (i.e., bus and light rail services) has not substantially changed since the certification of the NSJ FPEIR in June 2005.

4.15.2 Environmental Checklist and Discussion of Impacts

TRANSPORTATION/TRAFFIC						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio of roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
4) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
5) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
6) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,,2
7) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

4.15.2.1 *Roadway, Transit, and Pedestrian Facilities*

The 16.35-acre project site is currently zoned *IP(PD) Planned Development* through a Planned Development rezoning that was approved in March 1994 for a larger area of approximately 134 acres. The current IP(PD) zoning does not specify the amount of development allowed on the subject site, but set an overall maximum Floor Area Ratio (FAR) of 0.70 that would equate to approximately 498,535 square feet of industrial park office development on the subject property.

The project is a Director-initiated conforming rezoning to revise the height and setback regulations of the current zoning district to facilitate development more consistent with the goals and policies of the North San Jose Area Development Policy, including design measures intended to foster a pedestrian-oriented environment and promote transit use. The proposed rezoning will preserve the existing level of entitlement for the site but also allow the option of further intensification as provided for under the North San Jose Area Development Policy. The project also includes a PD Permit (File No. {PD07-081) to construct approximately 398,350 gross square feet of industrial park/office/R&D uses in two 6-story buildings.

A traffic analysis was prepared for the 2005-certified NSJ FPEIR that evaluated level of service impacts at 220 intersections and 124 directional freeway segments. The results of the traffic analysis indicated that development of the North San Jose area would result in significant traffic impacts at numerous intersections and freeway segments. At some locations, these significant impacts were determined to be unavoidable due to physical constraints and/or jurisdictional authority.

The traffic impacts from the proposed office/R&D development have been analyzed and accounted for in the assumptions used for the 2005 NSJ FPEIR. The project would not result in additional traffic trips beyond those assumed in the 2005 FPEIR.

Up to 498,535 square feet of development may be developed on the site under the provisions of the previous North San Jose Area Development Policy and subject to the Deficiency Fee per the previous policy. Any square footage developed on the site above the previously entitled amount will be drawn down from the capacity provided through the North San Jose Development Policy and will be subject to the associated Traffic Impact Fee. These fees will be used to fund construction of a series of transportation improvements identified in the 2005 NSJ Final EIR.

Even with these prescribed improvements for the North San Jose Area, traffic impacts at some locations would remain significant and unavoidable; the City Council adopted a statement of overriding considerations for this impact.

The proposed project would include TDM measures as required in the NSJ FPEIR to reduce air pollution emissions. Relevant TDM measures include the provision of bike and pedestrian facilities, implementation of carpool/vanpool programs, and use of various transit and other non-auto incentive programs for employees. The project also includes a pedestrian access corridor through the site and along the Guadalupe River frontage, which will help facilitate walking to/from the site.

Standard Measure: The project proposes to implement the following standard measure:

- Up to 498,535 square feet of new development, including the currently proposed 398,350 gross square foot project, shall comply with the City's previous *North San José Area Development Policy* and Deficiency Plan Fee.

- Any future development in excess of 498,535 square feet proposed under the Director-initiated confirming rezoning shall comply with the City's *North San José Area Development Policy Traffic Impact Fee Ordinance*.

4.13.2.2 *Parking*

The proposed PD Permit includes 1,258 surface parking stalls located throughout the site. The proposed parking is approximately 290 stalls in excess of what is required for the proposed building space as R&D use. The proposed number of parking stalls complies with the development standards established for PDC93-017 (Ordinance No. 24572 adopted March 22, 1994), which correspond with Section 20.90 of the SJMC.

Standard Measure: The project proposes to implement the following standard measure:

- Comply with the development standards established for PDC93-017 (Ordinance No. 24572 adopted March 22, 1994), which correspond with Section 20.90 of the SJMC.

4.15.3 Conclusion

The proposed project, with the implementation of the above measures, would not result in new or more significant impacts to the transportation system than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.16 UTILITIES AND SERVICE SYSTEMS**4.16.1 Setting**

The water, sanitary sewer, storm drainage, solid waste, natural gas, and electricity services and facilities have not changed since the certification of the 2005 NSJ FPEIR.

4.16.2 Environmental Checklist and Discussion of Impacts

UTILITIES AND SERVICE SYSTEMS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
5) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
6) Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
7) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

The current PD zoning for the site allows for approximately 498,535 square feet of industrial park office development on the subject property. The project proposes a PD Permit (File No. PD07-081) to construct approximately 398,350 gross square feet of industrial park/office/R&D uses in two 6-story buildings. As concluded in the certified 2005 NSJ FPEIR, full implementation of the project would not result in significant adverse environmental impacts as a result of development exceeding the capacity of the water supply, sanitary sewer/wastewater treatment, or storm drainage systems.

The proposed project would connect to existing utility lines and determine if existing lines would need to be upgraded at the PD Permit stage. The project applicant shall be responsible for utility improvements.

4.16.2.1 *Senate Bill 610*

Senate Bill 610 (2001), codified at Water Code Section 10910 et seq., requires that certain water supply information be prepared for projects that are the subject of an EIR. Water Code Section 10912 defines a “project” as, *inter alia*, a proposed residential development of more than 500 dwelling units, or a proposed industrial or commercial office building planned to house more than 1,000 persons or having more than 650,000 square feet of floor space (500,000 for commercial office). While the proposed PD permit development does not meet the definition of a “project,” as defined by Water Code Section 10912, the proposed development would contribute to the development envisioned in the NSJ Development Policies Update.

A water supply analysis was prepared in conformance with Water Code and included in the 2005 NSJ FPEIR. It was concluded that full implementation of the development allowed with the certified 2005 NSJ FPEIR would require the expansion of the existing recycled water system and continued implementation of the City’s water conservation programs. The project proposes to install dual plumbing for use of recycled water for landscaping and the proposed park.

At the PD Permit stage, the City shall require the proposed project to incorporate water conservation programs including, but not limited to, the following where appropriate:

- Dual plumbing for exterior recycled water use (e.g., use of recycled water in landscape irrigation);
- Construction standards that require high-efficiency fixtures (e.g., high-efficiency 1.2 gallons per flush toilets);
- Construction standards that require high-efficiency devices for outdoor water uses (e.g., self-adjusting weather-based irrigation controllers);
- The use of fully advanced treated recycled water for irrigation of large landscaped areas;
- Enforcement of the City’s Model Water Efficient Landscape Ordinance (per AB325 1990); and
- Promotion and use of drought tolerant and native plantings in landscaping.

4.16.3 Conclusion

The proposed project would not result in new or more significant impacts to utilities and services systems than those addressed in the certified 2005 NSJ FPEIR, if the project includes water conservation program(s). **(No New Impact)**

4.17 MANDATORY FINDINGS OF SIGNIFICANCE

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
1) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2, p. 11-63
2) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2, p. 11-63
3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2, p. 11-63

The 2005 NSJ FPEIR analyzed the development of 26.7 million square feet of new industrial/office/R&D building space, 1.7 million square feet of new neighborhood serving commercial uses, and the addition of 32,000 new dwelling units in the Rincon area.

The project PD zoning would allow at least 498,535 square feet of industrial park office development on the subject property and the proposed PD Permit would allow development of approximately 398,350 gross square feet of industrial park/office use. The proposed development is within the amount of development analyzed in the 2005 NSJ FPEIR; therefore, the project would not result in new or more significant environmental impacts than those addressed in the certified 2005 NSJ FPEIR with the implementation of the standard, avoidance, and mitigation measures included in the project and described in the specific sections of this Addendum (refer to **Section 4.0 Environmental Setting, Checklist, and Discussion of Impacts**, on pages 11-63 of this Addendum).

The City of San José has determined that this project qualifies for an addendum to the 2005 NSJ FPEIR.

Checklist Sources

1. Professional judgment and expertise of the environmental specialist preparing this assessment, based upon a review of the site and surrounding conditions, as well as a review of the project plans.
2. City of San José. Final Environmental Impact Report, North San José Development Policies Update. June 2005.
3. California Department of Conservation. Santa Clara County Important Farmland 2004. Map.
4. City of San José. Zoning Ordinance. 10 February 2006.
5. Bay Area Air Quality Management District. CEQA Guidelines. December 1999.
6. WRA Environmental Consultants, 101/Orchard Parkway, San Jose, Biological Conditions Report, 4 June 2007.
7. Holman & Associates. Archaeological Literature Review and Field Inspection of the Proposed HP Expansion Site, San Jose, Santa Clara County, California. July 1992.
8. Treadwell & Rollo, Draft Geotechnical Investigation, 101/Orchard Parkway, San Jose California, October 2007.
9. ARC TEC, Inc., Due Diligence Report, Orchard Parkway, San Jose, California, September 2006.
10. ENV America Incorporated, Phase I Environmental Site Assessment 101/Orchard, San Jose, California, August 2007.
11. BKF Engineers, Flood Blockage Study, Orchard Parkway/101, San Jose, California, November 2007.
12. Schaaf & Wheeler. North San José Floodplain Management Study Update. June 2006.
13. City of San José. San José 2020 General Plan.
14. City of San José. North San José Area Development Policy. June 2005.

SECTION 5.0 REFERENCES

- ARC TEC, Inc., Due Diligence Report, Orchard Parkway, San Jose, California, September 2006.
- Bay Area Air Quality Management District. CEQA Guidelines. December 1999.
- BKF Engineers, Flood Blockage Study, Orchard Parkway/101, San Jose, California, November 2007.
- California Department of Conservation. Santa Clara County Important Farmland 2004. Map.
- City of San José. Final Environmental Impact Report, North San José Development Policies Update. June 2005.
- City of San José. North San José Area Development Policy. June 2005.
- City of San José. Riparian Corridor Policy Study. March 1999.
- City of San José. San José 2020 General Plan.
- City of San José. Zoning Ordinance. 10 February 2006.
- ENV America Incorporated, Phase I Environmental Site Assessment 101/Orchard, San Jose, California, August 2007.
- Holman & Associates. Archaeological Literature Review and Field Inspection of the Proposed HP Expansion Site, San Jose, Santa Clara County, California. July 1992.
- Schaaf & Wheeler. North San José Floodplain Management Study Update. June 2006.
- Treadwell & Rollo, Draft Geotechnical Investigation, 101/Orchard Parkway, San Jose California, October 2007.
- WRA Environmental Consultants, 101/Orchard Parkway, San Jose, Biological Conditions Report, June 2007.

SECTION 6.0 LEAD AGENCY AND CONSULTANTS

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